

AMENDED IN ASSEMBLY MAY 2, 2016

AMENDED IN ASSEMBLY APRIL 7, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1850

Introduced by Assembly Member Eduardo Garcia
(Coauthor: Assembly Member Gonzalez)

February 10, 2016

An act to amend Sections 13000, 32400, 32401, 52613, 52651, 68062, 68130.5, and 69505 of the Education Code, relating to educational services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1850, as amended, Eduardo Garcia. Educational services: permanent residents: foreign nationals.

(1) The existing California Civil Liberties Public Education Act has been enacted for the stated purpose of sponsoring public educational activities and development of educational materials to ensure that the events surrounding the exclusion, forced removal, and internment of persons of Japanese ancestry will be remembered and so that the causes and circumstances of this and similar events may be illuminated and understood.

Existing law requires, to the extent that federal financial analysis methodology incorporates this exemption, income received as reparation payments paid pursuant to federal law for the purpose of redressing the injustice done to persons of Japanese ancestry who were interned during World War II not be considered in determining an ~~applicant's~~ *applicant's* financial need for purposes of student financial aid programs.

This bill would delete the term “resident aliens” from these provisions and replace it with the term “permanent residents.”

(2) Existing law expresses findings of the Legislature with respect to the impact of the federal Immigration Reform and Control Act of 1986 on illegal aliens. Existing law also states the intent of the Legislature to establish a state test that may be used by eligible aliens to attest to their understanding of English and understanding of the history and government of the United States to meet the requirements of that act. Existing law requires the Superintendent of Public Instruction, in consultation with the Chancellor of the California Community Colleges, to develop the state test referenced above.

This bill would delete the word “illegal” from the legislative findings relating to these aliens.

(3) This bill would also replace the word “alien” with the term “foreign national” in various provisions relating to educational services provided to immigrants, relating to adult education, and relating to the determination of residence for students of specified public postsecondary educational institutions, but this replacement would be operative only if the Superintendent certifies, in writing, to the Secretary of State of California on or before January 20, 2017, that this terminology has been changed in federal law as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 13000 of the Education Code is amended
2 to read:
3 13000. (a) This part shall be known and may be cited as the
4 California Civil Liberties Public Education Act. The purpose of
5 the California Civil Liberties Public Education Act is to sponsor
6 public educational activities and development of educational
7 materials to ensure that the events surrounding the exclusion, forced
8 removal, and internment of citizens and permanent residents of
9 Japanese ancestry will be remembered, and so that the causes and
10 circumstances of this and similar events may be illuminated and
11 understood.
12 (b) The Legislature finds and declares that the federal
13 Commission on Wartime Relocation and Internment of Civilians
14 (CWRIC) was established by Congress in 1980 to “review the

1 facts and circumstances surrounding Executive Order 9066, issued
2 in February 19, 1942, and the impact of such Executive Order on
3 American citizens and permanent residents... and to recommend
4 appropriate remedies.” The CWRIC issued a report of its findings
5 in 1983 with the reports “Personal Justice Denied” and “Personal
6 Justice Denied-Part II, Recommendations.” The reports were based
7 on information gathered “through 20 days of hearings in cities
8 across the country, particularly the West Coast, hearing testimony
9 from more than 750 witnesses: evacuees, former government
10 officials, public figures, interested citizens, and historians and
11 other professionals who have studied the subjects of Commission
12 inquiry.”

13 (c) The lessons to be learned from the internment of
14 Japanese-Americans during World War II are embodied in
15 “Personal Justice Denied-Part II, Recommendations.” The CWRIC
16 concluded as follows: “In sum, Executive Order 9066 was not
17 justified by military necessity, and the decisions that followed
18 from it-exclusion, detention, the ending of detention and the ending
19 of exclusion-were not founded upon military considerations. The
20 broad historical causes that shaped these decisions were race
21 prejudice, war hysteria, and a failure of political leadership.
22 Widespread ignorance about Americans of Japanese descent
23 contributed to a policy conceived in haste and executed in an
24 atmosphere of fear and anger at Japan. A grave personal injustice
25 was done to the American citizens and resident aliens of Japanese
26 ancestry who, without individual review or any probative evidence
27 against them were excluded, removed and detained by the United
28 States during World War II.”

29 (d) The Legislature further finds and declares that President
30 Ronald Reagan signed into law the federal Civil Liberties Act of
31 1988 and declared during the signing ceremony that “This is a
32 great day for America.” In that act the Congress declared as
33 follows:

34 “The Congress recognizes that, as described in the Commission
35 on Wartime Relocation and Internment of Civilians, a grave
36 injustice was done to both citizens and permanent residents of
37 Japanese ancestry by the evacuation, relocation, and internment
38 of civilians during World War II. As the Commission documents,
39 these actions were carried out without adequate security reasons
40 and without any acts of espionage or sabotage documented by the

Commission, and were motivated largely by racial prejudice, wartime hysteria, and a failure of political leadership. The excluded individuals of Japanese ancestry suffered enormous damages, both material and intangible, and there were incalculable losses in education and job training, all of which resulted in significant human suffering for which appropriate compensation has not been made. For these fundamental violations of the basic civil liberties and constitutional rights of these individuals of Japanese ancestry, the Congress apologizes on behalf of the Nation.”

SEC. 2. Section 32400 of the Education Code is amended to read:

32400. (a) The Legislature finds that as many as one million seven hundred thousand aliens could be granted amnesty and would seek permanent residency in California under the federal Immigration Reform and Control Act of 1986 (Public Law 99-603). Under the act, eligible aliens would be required to demonstrate an understanding of ordinary English and a knowledge and understanding of the history and government of the United States.

(b) Further, it is the intent of the Legislature to establish a state test for use by eligible aliens that would attest to their understanding of English and understanding of the history and government of the United States to meet the requirements of Section 312 of the federal Immigration and Nationality Act (8 U.S.C. Sec. 1423) and the federal Immigration Reform and Control Act of 1986 (Public Law 99-603).

SEC. 3. Section 32400 of the Education Code is amended to read:

32400. (a) The Legislature finds that as many as one million seven hundred thousand undocumented foreign nationals could be granted amnesty and would seek permanent residency in California under the federal Immigration Reform and Control Act of 1986 (Public Law 99-603). Under the act, eligible ~~aliens~~ *undocumented foreign nationals* would be required to demonstrate an understanding of ordinary English and a knowledge and understanding of the history and government of the United States.

(b) Further, it is the intent of the Legislature to establish a state test for use by eligible foreign nationals that would attest to their understanding of English and understanding of the history and government of the United States to meet the requirements of Section 312 of the federal Immigration and Nationality Act (8

1 U.S.C. Sec. 1423) and the federal Immigration Reform and Control
2 Act of 1986 (Public Law 99-603).

3 SEC. 4. Section 32401 of the Education Code is amended to
4 read:

5 32401. (a) The Superintendent, in consultation with the
6 Chancellor of the California Community Colleges, shall develop
7 a test or adopt an existing test, subject to the approval of the United
8 States Attorney General pursuant to the federal Immigration
9 Reform and Control Act of 1986 (Public Law 99-603), to measure
10 whether an eligible foreign national has a minimal understanding
11 of ordinary English and a knowledge and understanding of the
12 history and government of the United States as required under
13 Section 312 of the federal Immigration and Nationality Act (8
14 U.S.C. Sec. 1423).

15 (b) The Governor, the Superintendent, the Chancellor of the
16 California Community Colleges, the President pro Tempore of the
17 Senate, and the Speaker of the Assembly shall petition the Director
18 of the United States Immigration and Naturalization Service and
19 the United States Attorney General for approval to use the test
20 referred to in subdivision (a) as one means by which an eligible
21 foreign national may satisfy the requirements under the federal
22 Immigration Reform and Control Act of 1986 (Public Law 99-603).

23 (c) The Superintendent shall distribute the test referred to in
24 subdivision (a) to school districts, county offices of education, and
25 community colleges, upon their request for purposes of
26 administration, to eligible foreign nationals granted legal status
27 pursuant to Section 245A of the federal Immigration and
28 Nationality Act, as amended by the Federal Immigration Reform
29 and Control Act of 1986 (Public Law 99-603). Any school district,
30 county office of education, or any other eligible agency that
31 receives federal legalization impact-assistance funds to provide
32 educational services may administer the test for purposes of
33 determining the need of an eligible foreign national applying for
34 legal status for appropriate educational services, and of allowing
35 an eligible foreign national to demonstrate an understanding of
36 ordinary English and a knowledge and understanding of the history
37 and government of the United States. Test results shall be
38 confidential, and shall not be released without the written consent
39 of the eligible foreign national for any purpose that is not directly
40 related to the provision of educational services. Upon request by

1 an eligible foreign national applying for legal status, test results
2 may be transmitted to the United States Immigration and
3 Naturalization Service. School districts, county offices of ~~education~~
4 *education*, community colleges, and any other eligible agencies
5 that receive federal funds for this purpose shall administer the test
6 using appropriate test monitor and control procedures and provide
7 for necessary test security measures.

8 SEC. 5. Section 52613 of the Education Code is amended to
9 read:

10 52613. (a) Notwithstanding any section to the contrary, each
11 governing board of a school district maintaining classes for adults
12 that issues a Certificate of Eligibility for Nonimmigrant (F-1)
13 Student Status - For Academic and Language Students, Form
14 I-20AB, or completes Form I-20AB for a nonimmigrant foreign
15 national, as defined in subparagraph (F)(i) of paragraph (15) of
16 subsection (a) of Section 1101 of Title 8 of the United States Code,
17 for the purposes of enrolling the nonimmigrant foreign national
18 in a class in English and citizenship for foreigners or a class in an
19 elementary subject, shall charge the nonimmigrant foreign national
20 a fee to cover the full costs of instruction, but in no case shall the
21 fee exceed the actual cost of the instruction. The fee shall be
22 adopted at a regular meeting of the governing board of each of
23 these school districts maintaining classes for adults at least 90 days
24 before the commencement of the classes for which the fee is
25 charged.

26 (b) No school district maintaining classes for adults shall include
27 the attendance of F-1 visa students enrolled in a class in English
28 and citizenship for foreigners or in a class in elementary subjects
29 for apportionment purposes.

30 SEC. 6. Section 52651 of the Education Code is amended to
31 read:

32 52651. For purposes of this chapter, unless the context
33 otherwise requires, the following terms shall have the following
34 meanings:

35 (a) "Board of Governors" means the Board of Governors of the
36 California Community Colleges.

37 (b) "Chancellor" means the Chancellor of the California
38 Community Colleges.

39 (c) "Community-based organizations" means public nonprofit
40 benefit corporations of demonstrated effectiveness approved by

1 the Superintendent to provide educational services to eligible
2 legalized persons.

3 (d) “Department” means the State Department of Education.

4 (e) “Educational outreach activities” means:

5 (1) Information transmitted to temporary resident foreign
6 nationals regarding the requirements of the federal Immigration
7 and Nationality Act of 1986 (8 U.S.C. Secs. 1160, 1161, and
8 1255a), as those requirements existed on the effective date of this
9 chapter, relating to adjustment of resident status, sources of
10 assistance to those foreign nationals obtaining adjustment of
11 resident status, including educational, informational, and referral
12 services, and the rights and responsibilities of those foreign
13 nationals and foreign nationals lawfully admitted for permanent
14 residence, the identification of health, employment, and social
15 services, and the importance of identifying oneself as a temporary
16 resident foreign national to service providers. It does not include
17 client counseling or any other service that would assume
18 responsibility of the foreign national’s application for the
19 adjustment of resident status.

20 (2) Information provided to newly legalized persons and other
21 immigrants regarding educational opportunities available to them.

22 (f) “Immigrant” means a person who is a citizen of a country
23 other than the United States and is eligible for education services
24 in California or a naturalized United States citizen who is now
25 residing in California.

26 (g) “Newly legalized person” means a foreign national who has
27 been granted lawful temporary resident status under Sections 1160,
28 1161, and 1255a of Title 8 of the United States Code, as those
29 sections existed on the effective date of this chapter. In addition,
30 it means a person who has, after being granted lawful temporary
31 resident status, obtained permanent resident or citizenship status.

32 (h) “Services provider” means any community-based
33 organization, school district maintaining adult education programs,
34 or community college that has been approved by the Superintendent
35 in the 1991–92 fiscal year as eligible to provide educational
36 services to newly legalized persons pursuant to subdivision (k) of
37 Section 23.50 of the Budget Act of 1991.

38 (i) “SLIAG” means the State Legalization Impact-Assistance
39 Grants as set forth in Section 204 of the federal Immigration

1 Reform and Control Act of 1986, (Sec. 204, P.L. 99-603), as it
2 exists on the effective date of this chapter.

3 (j) “Superintendent” means the Superintendent of Public
4 Instruction.

5 SEC. 7. Section 68062 of the Education Code is amended to
6 read:

7 68062. In determining the place of residence the following
8 rules are to be observed:

9 (a) There can only be one residence.

10 (b) A residence is the place where one remains when not called
11 elsewhere for labor or other special or temporary purpose, and to
12 which he or she returns in seasons of repose.

13 (c) A residence cannot be lost until another is gained.

14 (d) The residence can be changed only by the union of act and
15 intent.

16 (e) A man or woman may establish his or her residence. A
17 woman’s residence shall not be derivative from that of her husband.

18 (f) The residence of the parent with whom an unmarried minor
19 child maintains his or her place of abode is the residence of the
20 unmarried minor child. When the minor lives with neither parent
21 his or her residence is that of the parent with whom he or she
22 maintained his or her last place of abode, provided the minor may
23 establish his or her residence when both parents are deceased and
24 a legal guardian has not been appointed.

25 (g) The residence of an unmarried minor who has a parent living
26 cannot be changed by his or her own act, by the appointment of a
27 legal guardian, or by relinquishment of a parent’s right of control.

28 (h) A foreign national, including an unmarried minor foreign
29 national, may establish his or her residence, unless precluded by
30 the federal Immigration and Nationality Act (8 U.S.C. Sec. 1101
31 et seq.) from establishing domicile in the United States.

32 (i) The residence of an unmarried minor foreign national shall
33 be derived from his or her parents pursuant to the provisions of
34 subdivisions (f) and (g).

35 SEC. 8. Section 68130.5 of the Education Code is amended to
36 read:

37 68130.5. Notwithstanding any other law:

38 (a) A student, other than a nonimmigrant foreign national within
39 the meaning of paragraph (15) of subsection (a) of Section 1101
40 of Title 8 of the United States Code, who meets all of the following

1 requirements shall be exempt from paying nonresident tuition at
2 the California State University and the California Community
3 Colleges:

4 (1) Satisfaction of either of the following:

5 (A) High school attendance in California for three or more years.

6 (B) Attainment of credits earned in California from a California
7 high school equivalent to three or more years of full-time high
8 school coursework and a total of three or more years of attendance
9 in California elementary schools, California secondary schools,
10 or a combination of those schools.

11 (2) Graduation from a California high school or attainment of
12 the equivalent thereof.

13 (3) Registration as an entering student at, or current enrollment
14 at, an accredited institution of higher education in California not
15 earlier than the fall semester or quarter of the 2001–02 academic
16 year.

17 (4) In the case of a person without lawful immigration status,
18 the filing of an affidavit with the institution of higher education
19 stating that the student has filed an application to legalize his or
20 her immigration status, or will file an application as soon as he or
21 she is eligible to do so.

22 (b) A student exempt from nonresident tuition under this section
23 may be reported by a community college district as a full-time
24 equivalent student for apportionment purposes.

25 (c) The Board of Governors of the California Community
26 Colleges and the Trustees of the California State University shall
27 prescribe rules and regulations for the implementation of this
28 section.

29 (d) Student information obtained in the implementation of this
30 section is confidential.

31 SEC. 9. Section 69505 of the Education Code is amended to
32 read:

33 69505. (a) To the extent that federal financial analysis
34 methodology incorporates this exemption, income received as
35 reparation payments paid pursuant to federal law on or after
36 October 1, 1990, for the purpose of redressing the injustice done
37 to United States citizens and permanent residents of Japanese
38 ancestry who were interned during World War II shall not be
39 considered in determining an applicant's financial need.

(b) To the extent that federal financial analysis methodology incorporates this exemption, income received as reparation payments paid by the Canadian government for the purpose of redressing the injustice done to persons of Japanese ancestry who were interned in Canada during World War II shall not be considered in determining an applicant's financial need.

SEC. 10. (a) Sections 3 to 8, inclusive, of this act shall not become operative unless, on or before January 20, 2017, the Superintendent of Public Instruction certifies, in writing, to the Secretary of State of California that House Resolution 3785 of the 114th United States Congress, or an equivalent measure, has been enacted and the Correcting Hurtful and Alienating Names in Government Expression (CHANGE) Act has become law, accomplishing both of the following with respect to an executive agency of the federal government:

(1) The replacement of the term "alien" with the term "foreign national" when used to refer to an individual who is not a citizen or national of the United States.

(2) The replacement of the term "illegal alien" with the term "undocumented foreign national" when used to refer to an individual who is unlawfully present in the United States or who lacks a lawful immigration status in the United States.

(b) In the event that the Superintendent of Public Instruction makes the certification referenced in subdivision (a), Section 2 of this act shall become inoperative.